

REMARKS

Thank you to Supervisory Examiner Lewis for the time spent on May 17, 2004 with Applicants, their undersigned counsel, and Kevin Burrow, the Vice President of the Licensee, King Systems, Inc. Dependent claims 23 and 24 have been added. Claims 13-24 are pending. During the interview of May 17, 2004, it was pointed out that the limitation of dependent claims 23 and 24 is found on page 11, lines 5-11 of the specification as originally filed.

As set forth below in more detail, it is respectfully submitted that for reasons of record and/or those presented at the interview of May 17, 2004, claims 13-24 are in condition for allowance and allowance is respectfully requested.

Palleni does not teach a rigid proximal fitting for connecting multiple flexible tubes to a mating rigid proximal terminal as recited in claim 13, lines 11-15. Palleni shows flexible tubes directly attached to a proximal unit 26. Palleni does not teach or suggest breaking his proximal unit 26 apart to provide a mating proximal fitting for connecting said tubing to his proximal unit. Such a structure does not exist in Palleni, nor is it suggested. Further, only the inner tube 32 of Palleni carries gas to a patient. The outer tube is merely a pressure vessel to collapse or expand the inner tube.

The prior art teaches away from making tubing detachable at the proximal terminal of a unilimb respiratory conduit. In order for the proximal fitting of the present invention to mate to a mating proximal terminal it must have the correct structure to do so, and such a structure is not taught or suggested by Palleni. As Dr. Fukunaga pointed out during the interview and the Hanallah reference (#A49 in the IDS submitted with the application) demonstrate accidental disconnection of the proximal end of a flexible tube from a multilumen respiratory circuit proximal terminal during use could cause death or serious injury. Hence, one of skill in the art was not motivated, but in fact discouraged from making detachable components for a proximal terminal.

Further, the circuit of later filed U.S. Patent 4,265,235, to the first named inventor of the present invention, Dr. Fukunaga, was demonstrated at the interview. This "Universal F" circuit has been successfully marketed for over a decade, despite post-dating Palleni, and requires bonded attachment at the proximal terminal of two

independent flexible tubes. However, in contrast to the cited Palleni teaching, the Fukunaga Universal F device carries air to and from a patient and an assisted ventilation machine. Clearly, the Universal F would not have been so successful if Palleni taught or suggested making the detachable proximal fitting that is structurally defined so as to mate to a mating proximal terminal. As Kevin Burrow, the Vice President of the Licensee, pointed out during the interview, the present invention has achieved commercial success in the industry.

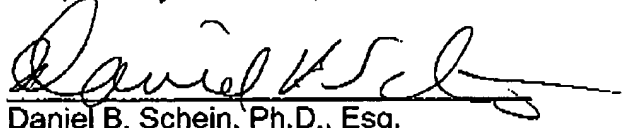
In view of the foregoing, allowance is therefore respectfully requested.

NOTICE OF APPEAL

Notice of Appeal to the Office Action of December 23, 2004, and to all outstanding rejections is hereby given.

17 May 2004
Date

Respectfully submitted,


Daniel B. Schein, Ph.D., Esq.
Registration No. 33,551

Attorney for Applicants
P.O. Box 28430
San Jose, California 95159
(408) 294-6750